

SECTIONS 12.0 AND 12.1 TECHNICAL SUPPORT DOCUMENT

The Clark County Department of Air Quality (DAQ) is revising its minor source permitting requirements to remove language used to transition from the 2004 program to the program adopted on May 18, 2010. DAQ has also included updates that address permitting activities unforeseen when the 2010 rules were adopted.

This action will produce a revised minor source permitting regulation that addresses all the issues DAQ has identified over the past eight years. Defined terms have been updated, and new terms have been added that DAQ now uses routinely. Some requirements have been reorganized to add clarity and improve readability. Other changes are detailed below.

These revisions will be incorporated into each existing minor source permit during permit revisions (where appropriate) and permit renewals.

Section 12.0: “Applicability, General Requirements and Transition Procedures”

- The name of this section was changed to “Applicability and General Requirements,” removing the reference to transition procedures.
- Section 12.0.3 was deleted because it addressed the implementation of the rewritten regulations (i.e., Sections 12.1, 12.4, 12.5, and 12.11 (not included in the SIP)), which DAQ has completed.

Section 12.1: “Permit Requirements for Minor Sources”

- All uses of “paragraph” and “subsection” were removed from Section 12.1 and replaced with “Section.” The word “Section” and the section number were inserted in Sections 12.1.1(a), 12.1.3.6(a)(3)(G), 12.1.3.6(b), 12.1.4.1(d)(1)(B), 12.1.5.3(a)(1)(J), 12.1.5.3(b), 12.1.6(a)(3)(A), 12.1.6(b)(2), 12.1.6(b)(3)(B), and 12.1.6(f).
- “Modify” and “modification” were used interchangeably with “revision” in the rule, which has been a source of confusion. “Modify” or “modification” refers to a physical change, or a change in the method of operation that results in an increase in the potential to emit; “revision” refers to **any** physical change, or change in the method of operation regardless of its impact on the potential to emit. “Revision” is also used for any administrative change to the wording in a permit. To avoid confusion, “revision” will now be used for all changes to a permit except those that are clearly modifications, as defined in Section 0.
- **Section 12.1.1, “Definitions”:**
 - Section 12.1.1 stated that the definitions in it would be used in sections besides 12.1 and 12.11. DAQ found these definitions are no longer used elsewhere with the same intended meaning, so we changed this statement to reflect that it only applies to Sections 12.1 and 12.11.
 - “Exempt stationary source” was rewritten to add clarity and update section references.

- “Existing minor source” became obsolete after all minor sources had been issued permits subject to the 2010 Section 12.1. It was revised to include any minor source that has been issued a permit and is not a new minor source.
- “Like-kind” was added to avoid confusion about what the term includes.
- “Minor source” was not changed. However, the words “or “source” were added because “source,” used throughout Section 12.1, was not defined.
- “Minor Source Permit” was revised to remove transition-related terms.
- “New minor source” was revised to remove transition-related terms and to include an expired minor source permit if six months have elapsed without an application for renewal.
- “Portable source” was added because DAQ incorporated additional requirements into Section 12.1 to address differences between portable and stationary sources.
- “Responsible Official” was defined specifically for Section 12.1 because the Section 0 definition applies to a Part 70 source, i.e., companies larger than those typically subject to minor source requirements, and carries criminal as well as civil liabilities. Minor sources are subject only to civil liabilities.
- “Temporary” was added to clarify Sections 12.1.2(c)(4), (5), and (6)—now Section 12.1.2(b)(3)—where non-road engines are included.
- “Voluntarily accepted emission limitation” was added to describe permit emissions limitations or other standards referenced in Section 12.1.7(a).
- Sections referenced in definitions were renumbered to accommodate changes.
- **Section 12.1.2: “Emission Units and Activities Exempt from Permit Requirements”**
 - The title was changed to “Exempt and Insignificant Emission Units and Activities” after combining the exempt list with the list of insignificant activities.
 - Sections were renumbered to accommodate changes.
 - Section 12.1.2(b) was moved to Section 12.1.2(e) and revised to refer to a new or existing minor source applying to be an exempt stationary source. The Control Officer may provide a certificate of exemption that includes any insignificant units and activities considered in the determination.
 - Section 12.1.2(b) now covers exempt activities, which include activities listed in Sections 12.5.2.5(a) and (c) and Appendix A, “Insignificant Activities and Emissions.”
 - Sections 12.1.2(c)(4)–(6) have been rewritten as Section 12.1.2(b)(3), and now include exempt temporary activities performed under the conditions of a Section 94 Dust Control Permit.

- The list of insignificant activities that must be included in the application and the description of emissions to be included in permit applicability calculations were moved to Section 12.1.2(c).
- In Section 12.1.2(c)(2), “the production of hot water for use by on-site personnel not related to any industrial or production process” was added as an insignificant unit in Section 12.1.2(c)(1) – “boilers and water heaters rated less than 1 million BTUs per hour”.
- In Section 12.1.2(c)(7)(C), “trial less than 30 days of total operating time” was replaced with “trial is less than 30 consecutive days.”
- In Section 12.1.2(c)(7)(E)(iv), we propose deleting the words “and the estimated actual emissions increase.” Section 12.1 relies on a potential-to-emit to potential-to-emit comparison, so it does not consider estimated actual emission increases in any of its calculations for minor source permitting.
- The insignificant emission units and activities in the proposed new Section 12.1.2(b) were either taken from the exempt list or proposed as new. They will be included in permit applications, and their emissions will be taken into consideration to determine if:
 - The source is subject to minor source permitting;
 - Project emissions trigger significance;
 - The source is subject to nonattainment NSR; or
 - The source is subject to Section 12.5.
- Section 12.1.2(b)(7) adds a new activity to the exempt list: a temporary on-site crushing and/or screening operation supporting a single construction activity, including the engine(s) that power them, for up to 30 consecutive days. This activity must be performed under the conditions of a Section 94 Dust Control Permit to be exempt from minor stationary source permitting.
- The activities listed in Appendix A, “Insignificant Activities and Emissions,” were added to the “Exempt Units and Activities” list in Section 12.1.2(a). These activities were previously approved as activities to be “presumptively omitted from a permit application” as related to Part 70 operating permits. DAQ proposes they be presumptively omitted from minor source permit applications and exempted from minor source permitting.
- Section 12.1.2(d) was removed. The language was taken from Section 12.5.2.5(c), which concerns major sources, in the revision approved on 3/18/2014. The “two tons for individual or five tons for all emissions” condition is reasonable where thresholds are 100 tons per year or above, but do not fit where thresholds are five and twenty tons per year.

- **Section 12.1.3: “Permit Application”**

- The title of Section 12.1.3.1, “Duty to Apply for and Obtain a Permit for New or Modified Existing Minor Sources,” was changed to “Duty to Apply for a Minor Source Permit.”
- Sections 12.1.3.1 and 12.1.3.2 were rewritten as Section 12.1.3.1 to clarify text, remove transition language, and address the process of repermitting a minor source whose permit expires before a renewal is obtained. DAQ proposes allowing a minor source to reapply up to six months after permit expiration to avoid becoming a new minor source. Section 12.1.3.2 was marked as [Reserved].
- Section 12.1.3.3, “Complete Application,” is currently one paragraph; DAQ has expanded it into four. Section 12.1.3.3(b) expands on the application automatically being deemed complete at 60 days of receipt by identifying this applies to new permits, renewals, or significant revisions. Previously, this subsection was silent regarding minor revisions that allow for changes proposed in the application to be implemented seven calendar days from filing a complete application in Section 12.1.6(b)(2). Language has been added to clarify that completeness must be determined within seven days of receipt of the minor revision to accommodate the requirement to authorize minor changes to be implemented after the seven days.
- References used to transition to the new rule was removed from Section 12.1.3.4 “Permit Application Shield,” and text was revised to identify the source’s obligation to continue to be eligible for a permit application shield.
- Language at the end of Section 12.1.3.5, “Duty to Supplement or Correct Application,” was changed to reflect that DAQ does not issue draft permits.
- Section 12.1.3.6: “Application Contents”
 - Section 12.1.3.6(a) was changed to identify which application contents are required based on the permitting action being proposed, and Sections 12.1.3.6(b) and (c) were reorganized to group the required contents so they can be easily identified. As an example, an application for a new minor source permit will require all the information identified in Sections 12.1.3.6(a), (b), and (c) be submitted; an application for the renewal of an existing minor source permit requires just the information identified in Section 12.1.3.6(a) to be submitted, as long as no revision is included in the action. The statement “an existing minor source that has not been issued an initial permit” was deleted because it no longer applies to this regulation. Another statement, “a voluntarily accepted emission limitation or standard,” always signals a significant revision, so it was removed.
 - Sections 12.1.3.6(a)(1), (2), and (3) were updated to reflect the titles used when DAQ communicates with a source: “plant name” was changed to “source name”; “owner or operator’s name” was replaced by “Responsible Official”; “agent” was deleted because DAQ only communicates through the Responsible Official or his/her designee, not an agent (which implies someone outside the company); and new language was added regarding the initial location of a portable source (if known) now that DAQ will identify a portable source as a type of stationary source.

- Section 12.1.3.6(a)(4) was revised to clarify that the Responsible Official provides a “declaration” that the statements are true, accurate, and complete; to specify which Nevada state law is applicable; and to clarify that the declaration is under penalty of perjury.
 - Sections 12.1.3.6(b), (c), and (d) were revised to remove the redundant statement “in addition to the information required by subpart (a).” They are now bullet items under 12.1.3.6(b). A new bullet item was added to require a compliance plan as part of a significant revision or renewal application submitted by an existing minor source that is not in compliance with all applicable requirements.
 - The requirement in Section 12.1.3.6(c)(2) to describe and quantify actual emissions was removed, since determinations will be made based on changes in the potential to emit.
- **Section 12.1.4: “Permit Content”**
 - Section 12.1.4.1: “Terms and Conditions”
 - Sections 12.1.4.1(d), (m)(1), and (m)(3) have been combined into the proposed (d). The language that was previously used in (d) was taken from Part 70, and much of the language in (m) was taken from the Indiana regulation used as the straw man for the rewrite of the minor source program. Section 12.1.4.1(m)(1) was moved to Section 12.1.4.1(d)(1)(D). Section 12.1.4.1(m)(2) was revised to include protocol certifications and then moved to Section 12.1.4(d)(3)(C).
 - Section 12.1.4.1(d) was revised to clarify without changing the original intent. The word “reasonable” was replaced with “adequate” in “information to evaluate compliance”; the statement “the underlying requirements of these regulations, and the Act” was deleted because it does not clarify permit terms and conditions. The statement “shall be contained in each minor source permit” was deleted because it is in the section dealing with permit terms and conditions.
 - Redundancy was removed from Section 12.1.4.1(d)(1). The word “appropriate” was added to the phrase “applicable [and appropriate] monitoring and testing requirements.” The phrase “instrumental or non-instrumental” was removed from Section 12.1.4.1(d)(1)(B) because the section already indicates “all monitoring” and the phrase does not add clarity.
 - Section 12.1.4.1(d)(2)(A)(iii) was revised to add “person and/or” before “company”; include “if a third party” to the options of who performed the monitoring; and add “monitoring, sampling, measurements, or” before “analyses.” The Compliance Division manager identified a need for the actual data used in the analysis, hence the added language.
 - Two additional requirements were added, Sections 12.1.4.1(d)(2)(A)(vii) and (viii), to bring in instrument calibration/maintenance and raw data relating to emissions calculations.

- Section 12.1.4.1(d)(2)(B) was revised to clarify the need to retain all records required by the conditions of the permit for at least five years from its issuance. Since the relevant permit conditions now contain examples of records to be retained, they were deleted from this paragraph.
- Section 12.1.4.1(f) was revised for clarity, and to break out its main points into a numbered list. A new limitation included as Section 12.1.4.1(f)(5) covers compliance with a voluntarily accepted emission limitation.
- Section 12.1.4.1(j) was revised to replace “exempt” with “insignificant” because exempt activities are not required to be listed in the permit, but insignificant activities are.
- Section 12.1.4.1(m) was deleted except for those parts moved into Section 12.1.4.1(d), as described above, and Section 12.1.4.1(s), as described below.
- Section 12.1.4.1(n) was revised to consolidate the first two bullets and the lead-in clause into one statement that covers all points without changing the original intent. The third bullet in the list was deleted, and a statement was added that the notice provided to the Control Officer will include a complete list and description of the differences between what was constructed and what was authorized to be constructed.
- Section 12.1.4.1(s) is a revised version of Section 12.1.4.1(m)(2) that was moved because its subject matter fit better with the surrounding subsections. The revision requires that permittees grant access to the Control Officer (or representative) to perform inspections and check out complaints, in accordance with AQR Section 4 and NRS 445B.508 requirements.
- Section 12.1.4.1(y) was added to authorize DAQ to require notification within 15 days of the date a new emission unit began operating. This is essential to enforcing requirements that involve a specified time following commencement of operations.
- Section 12.1.4.1(z) was added to ensure DAQ’s authority under state and local law to enact portable source permits. These conditions will ensure portable sources comply with federal, state, and local requirements by providing prior notice of change in location and providing notice when a project change causes the source to remain at a location longer than two years, requiring that increment can be calculated prior to the move. DAQ will require notice when the scope of a project changes, requiring the source to remain on location longer than two years, so increment can be calculated to ensure there isn’t a NAAQS violation; grant authority through a relocation notice to relocate a source to a new location without requiring the source apply for a permit revision; and ensure that a portable source permit cannot be used to split emissions between two permits to avoid an applicable requirement or standard.

- **Section 12.1.5: “Permit Application Processing Procedures”**

- Section 12.1.5.1: “Action on Application”

- In Section 12.1.5.1(a), the word “significant” was removed because the text applies to all types of revisions.
- Section 12.1.5.1(a)(5) was added to require the payment of applicable fees before a permit can be issued. Section 18.4.3.3 requires that an Authority to Construct Certificate shall not be issued unless the Control Officer has received full payment of all applicable fees, and a minor source permit issued under Section 12.1 includes the Authority to Construct.
- Section 12.1.5.1(b) was revised to require the issuance or denial of a permit or significant revision following the close of any public participation process prescribed by Section 12.1.5.3. Additionally, it was split into two items, (b) and (c).
- Sections 12.1.5.1(c), (d), and (e) were revised to remove the word “significant” so they would apply to all permit revisions.
- Section 12.1.5.1(c) was revised to allow the denial of any permit or permit revision if the applicant fails to submit the correct application or to demonstrate the source is designed to operate in a manner that meets all applicable requirements.
- Section 12.1.5.1(d) was revised to state that if the Control Officer denies a permit or revision, DAQ may notify the applicant by any method providing evidence of receipt—not just certified mail.
- Section 12.1.5.2, “Permit Processing Deadlines”
 - Section 12.1.5.2 was revised to replace the word “actions” with “permits.”
 - The table in this section was revised by:
 - Replacing “Action” with “Permit.”
 - Deleting “Initial permit for an existing minor source issued under Section 12.1” and its deadline of 75 days. This was transition language, and “initial permits” no longer exist.
 - Adding “Permit renewal with revision” and its deadline of 120 days, along with a footnote clarifying that an administrative revision is not included in the reference to “revision.”
 - Adding “Minor permit revision” and its deadline of 60 days.
- Section 12.1.5.3: “Public Participation”
 - Section 12.1.5.3(a)(1) was revised to:
 - Break the paragraph into a bulleted list, making it easier to identify the actions that trigger public participation requirements.
 - Update the numbering of proposed actions to accommodate Section 12.1.7 references to voluntarily accepted emission limitations and standards.

- Add a proposed action associated with new portable sources.
- Add a proposed action associated with relocating a portable source that is within 1,000 feet of a significant receptor.
- Add a proposed action associated with a voluntarily accepted emissions limitation in Section 12.1.7(C).
- Add a requirement to post Notices of Proposed Action on the DAQ website.
- Remove the requirement to publish Notices of Proposed Action in a newspaper of general circulation within Clark County, Nevada.
- Section 12.1.5.3(a)(2) became the list of required components to be included in the Notice of Proposed Action, which was in Section 12.1.5.3(a)(1).
- Section 12.1.5.3(a)(3) was added to require the notice of proposed action and proposed permit be posted on DAQ's website for 30 days for public comment.
- Section 12.1.5.3(a)(4) is revised to accommodate the posting of the Notice of Proposed Action on the Department's web site during the thirty (30) day public comment period.
- Section 12.1.5.3(a)(4) contains a new requirement to post relocation of portable sources on the DAQ website for a seven-day public comment period. Another requirement was added, in both (a)(4) and (a)(5), that the Control Officer must receive all written comments before the expiration of the public comment period.
- Section 12.1.5.3(b) was revised to remove the words "Notice of Proposed Action" before "public comment period."
- Section 12.1.5.3(b)(2) added a requirement to provide notice of the public hearing to the petitioner, the applicant, and those listed in Section 12.2.3(a)(4) in the same manner required for the Notice of Proposed Action.
- Section 12.1.5.3(a)(3) became Section 12.1.5.3(a)(6).
- Section 12.1.5.3(a)(7) added a requirement to post Notices of Proposed Action on the DAQ website.
- Section 12.5.2.17 added a requirement that a record of the commenters and issues raised during public participation be kept and made available to the public.
- Sections 12.1.5.4 and Section 12.1.5.5 were deleted because they addressed the handling of permitting actions during the transition period, which ended July 1, 2015.
- Section 12.1.5.4, "Permit Transfers," has no proposed changes.
- **Section 12.1.6: "Revisions to an Existing Minor Source Permit"**
 - Section 12.1.6(a): "Significant Permit Revision"

- Section 12.1.6(a) was revised to make the public participation condition in Section 12.1.5.3 mandatory only when applicable.
- Section 12.1.6(a)(3) was revised by replacing “the” with “such”, making the sentence state “except when such change results from either.”
- Section 12.1.6(a)(3)(B) was revised by replacing “a change in an applicable requirement” with “Newly applicable requirements specified in 40 CFR Part 60, Part 61, or Part 63.”
- Section 12.1.6(a)(4) was revised by replacing the phrase “applicable requirement” with the word “regulation.”
- Section 12.1.6(b): “Minor Permit Revision”
 - The introductory statement was revised to clarify that if a proposed permit revision does not qualify as “significant” under Section 12.1.6(a), but is described in 12.1.6(b), it is a minor revision. This will resolve an ongoing problem where minor sources simply apply for the revision type with the fewest requirements, rather than the one that is most appropriate.
 - The section was rearranged to make reading easier. Section 12.1.6(b)(2) was brought up into Section 12.1.6(b)(1), so now the first statement is: “The following changes require a minor permit revision....” Section 12.1.6(b)(1)(A) was added to bring in requirements for the construction of a new emission unit that is not a like-kind replacement. Sections 12.1.6(b)(2)(A)—(D) were renumbered to accommodate the new 12.1.6(b)(2)(A).
 - Section 12.1.6(b)(2) was not changed.
 - Section 12.1.6(b)(3) was revised to state: “The Control Officer may deny the minor revision because” and list the existing reasons for denying a minor revision. Sections 12.1.6(b)(1)(B)(i)—(iii) were renumbered to accommodate the change.
- Section 12.1.6(c): “Administrative Permit Revision”
 - The introductory statement adds “may be initiated by either the source or the Control Officer” but otherwise remains true to its original intent.
 - Added “These changes are not subject to Section 12.1.6(a) and (b):” The first words in the list items were revised to “correcting,” “changing,” “incorporating,” and “revising.”
 - Section 12.6.1(c)(3) added a new administrative change: “correcting a permit condition, including but not limited to emission standards and compliance demonstration requirements, consistent with an existing requirement.”
- Section 12.1.6(d): “Changes that Can Be Made with Prior Notice”
 - Section 12.1.6(d) was revised to include the requirement that prior written notice of a change must be submitted within the applicable time frame.

- Section 12.1.6(d)(1) was revised to replace “Department” with “Control Officer” for consistency.
- Section 12.1.6(d)(2) was revised to remove the statement “increases actual emissions less than ten (10) percent of the applicable major source threshold for the air pollutant(s) emitted, but...” because Section 12.1 emissions are assessed by comparing previous PTE to new PTE. Actual emissions are not considered in actions to revise the permit. “A physical change that does not increase the PTE and is a like-kind replacement of an emission unit” was added to address like-kind replacements here if they are not included in the permit revision.
- Section 12.1.6(d)(5) was deleted. This requirement has not been applied in the eight years since the regulation was approved. Based on experience, there are no situations that would trigger it; if one did occur, it would be dealt with under the provisions of a minor permit revision.
- Section 12.1.6(d)(6) was added to address location changes of portable sources. Under the previous Section 12, move notices were used for variable location permits. DAQ accepted these move notices because the regulation was silent on portable sources, but this change addresses them clearly.
- Section 12.1.6(e): “Changes that Can Be Made with On-site Logging”
 - Section 12.1.6(e) was revised to delete the statement “on a form obtained from the Control Officer.” On-site logging is done by the Responsible Official to maintain required records. DAQ cannot create forms that would meet the needs of every minor source, so it proposes placing this responsibility on the Responsible Official.
- Section 12.1.7: “Permits Containing Voluntarily Accepted Emission Limitations and Standards”
 - Section 12.1.7(a) was revised to remove the phrase “being subject to” from (iv), since it is redundant. Section 12.1.7(c) indicates where a VAEL can be used to avoid becoming subject to the list of requirements that would be otherwise triggered for the source, and provides a numbering system to clarify which actions trigger public participation. To limit the scope of “meeting other applicable requirements,” an exclusion was added for enforceable limitations to avoid triggering additional fees.
 - Section 12.1.7(c) was revised to remove references to a VAEL being a significant revision because Section 12.1.3.6(a) specifically identifies it as such. Language was added to clarify the conditions under which a permit containing a VAEL must undergo public participation. Section 12.1.5.3 added the requirement that a VAEL is subject to public participation, limited to avoiding (i) New Source Review under Sections 12.2 or 12.3; (ii) having to obtain a Part 70 Operating Permit under Section 12.5; and (iii) becoming a major HAPs source.

- **Other Significant Changes**

- Portable sources have been more appropriately defined, and terms and conditions have been added to Section 12.1 to facilitate process administration for them. These additions occur throughout the rule, for instance in Section 12.1.1(h), “Definition”; Sections 12.1.2(b)(2)(d) and (E), “Exemption”; Section 12.1.3.6(a)(2), “Application Contents”; Section 12.1.4.1(z), “Permit Terms and Conditions”; Sections 12.15.3(a)(1)(D) and (E) and Section 12.15.3(a)(3), “Public Participation”; and Section 12.1.6(d)(5), “Location Change Notices.”

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